

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

ISRAEL GARCIA, JR.,

Plaintiff,

v.

CAPIO PARTNERS, LLC,

Defendant.

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Case No.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant, Capió Partners, LLC (“Defendant”), hereby removes the above captioned civil action from the 40th Judicial District Court of Ellis County, Texas to the United States District Court for the Northern District of Texas, Dallas Division. The removal of this civil action is proper because:

1. Capió Partners, LLC is a defendant in a civil action filed by plaintiff, Israel Garcia, Jr. (“plaintiff”), in the 40th Judicial District Court of Ellis County, Texas, entitled and captioned as *Israel Garcia, Jr. v. Capió Partners, LLC*, Cause No. 96396 (hereinafter the “State Court Action”). Defendant consents to removal and there are no other defendants in this matter.

2. Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendant removes the State Court Action to this Court, which is the federal judicial district in which the State Court Action is pending.

3. The Petition in the State Court Action asserts claims under the federal Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227, *et seq.* A true and correct copy of plaintiff's Original Petition is attached hereto as **Exhibit A**.

4. Removal of the State Court Action is proper under 28 U.S.C. § 1441. If the action had originally been brought in this Court, this Court would have original, federal question jurisdiction over plaintiff's TCPA claims pursuant to 28 U.S.C. § 1331.

5. The 40th Judicial District Court of Ellis County, Texas, is located within the Northern District of Texas. Therefore, venue for purposes of removal is proper because the United States District Court for the Northern District of Texas embraces the place in which the removed action was pending. *See* 28 U.S.C. § 1441(a).

6. Pursuant to 28 U.S.C. § 1446(b), Defendant has timely filed this Notice of Removal. Defendant was served with process on July 3, 2017. This Notice of Removal is being filed within 30 days from service of the Citation and Petition.

7. A copy of this Notice of Removal is being served upon Plaintiff and filed concurrently with the 40th Judicial District Court of Ellis County, Texas.

WHEREFORE, Defendant, Capio Partners, LLC, hereby removes the State Court Action to this Honorable Court.

Respectfully Submitted,

/s/ Whitney L. White
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*Attorney for Defendant,
Capio Partners, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of July, 2017, a copy of the foregoing was electronically filed with the Clerk of the Court, United States District Court for the Northern District of Texas, and served via E-mail and Certified Mail upon the following:

Israel Garcia, Jr.
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Pro Se Plaintiff

/s/ Whitney L. White
Whitney L. White